

AMENDMENT
U.S. Appl. No. 09/407,008

REMARKS

Claims 70-80 are pending in the application and stand rejected. Reconsideration and allowance of all pending claims are respectfully requested in view of the following remarks.

PREMATURE FINAL OFFICE ACTION.

While the substantive comments in the Office Action make no mention of the finality of this action or reasons why a Final Office Action is proper, the Office Action summary indicates (by way of a check mark only) it is a Final Office Action. Applicant respectfully submits that since this is the first action in which any substantive examination of the claims, which include subject matter not present in an earlier application has been presented, a final first Office Action is premature. Furthermore, the 112, second paragraph rejection and the double-patenting rejection asserted are not grounds which could have been used to reject claims of the parent application. (MPEP 706.07(b)). Accordingly, Applicant respectfully requests reconsideration on the finality of this action.

CLAIM REJECTIONS.

35 U.S.C. § 112

Claim 77 is rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential elements. Notably, the Office Action alleges that this claim omits the element that "each time slot comprises a first time segment and a second time segment." Applicant respectfully traverses this rejection for the following reasons.

Applicant respectfully submits that a time slot comprising a first and second segment is not an essential element and the Office Action presents no reasoning or evidence why they are considered to be so. Accordingly, Applicant submits *prima facie* indefiniteness under 35 U.S.C.

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§ 112 has not been demonstrated on this basis alone. Additionally, prior to this amendment, claim 77 recited "a segment" and subsequently "a different segment" which Applicant believes is indistinguishable from the allegedly omitted elements of "a first segment" and "a second segment." Thus it is believed that the alleged "essential element" was already present in the claim. Notwithstanding, by this Amendment, Applicant amends claim 77 to recite *each time slot compris[es] a first time segment and a time second segment* to advance the prosecution of this application.

Applicant respectfully submits that the presented amendment does not raise any new issue which would require additional search or consideration (e.g., by virtue of these elements already being present in the claim albeit in different terminology and by virtue of these elements expressly being present in other independent claims such as claim 70). Accordingly, even if the finality of the Office Action is not withdrawn as requested above, this amendment should be entered into the record as being compliant with amendments presented after final rejection. In view of the foregoing reconsideration and withdrawal of the 112, second paragraph, rejection of record are respectfully requested.

DOUBLE PATENTING

Claims 70-80 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 8 and 11-15 of the parent U.S. Patent 6,005,856, also assigned to Intel Corporation (as evidenced by the attached assignment records). Applicant submits herewith, a timely filed terminal disclaimer to obviate this rejection. Reconsideration and withdrawal of this rejection are respectfully requested in view thereof.

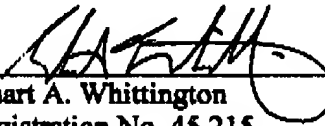
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CONCLUSION.

In view of the above, reconsideration and allowance of this application is now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to **Deposit Account # 50-0221.**

Respectfully submitted on December 7,
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